

IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

CAUSE NO. PD-1042-18

FILED
COURT OF CRIMINAL APPEALS
3/13/2019
DEANA WILLIAMSON, CLERK

RUBEN LEE ALLEN

vs.

THE STATE OF TEXAS

§ ON APPEAL FROM THE
§ 337TH DISTRICT COURT OF
§
§ HARRIS COUNTY, TEXAS
§ TRIAL CAUSE NO. 1487627

APPELLANT'S MOTION FOR LEAVE TO FILE A REPLY BRIEF

TO THE HONORABLE JUDGES OF THE COURT OF CRIMINAL APPEALS:

NOW COMES, RUBEN LEE ALLEN, Appellant, pursuant to TEX. R. APP. P. 38.3 and 70.4, and moves this Court to allow Appellant to file a reply brief in response to the State's Brief Regarding the Appellant's Petition for Discretionary Review. In support thereof, Appellant would respectfully show the following:

1. This Court granted Appellant's petition for discretionary review on December 12, 2018.
2. Appellant filed his brief on the merits regarding his petition for discretionary review on January 11, 2019.
3. The State filed its responsive brief on February 21, 2019.
4. Upon a party's motion, this Court may permit the filing of additional briefs. See TEX. R. APP. P. 70.4. Generally, an appellant may file a reply brief addressing any matter in the State's responsive brief. TEX. R. APP. P. 38.3. A reply brief must be filed within 20 days after the State filed its brief. TEX. R. APP. P. 38.6(c).
5. Upon review of the State's brief, Appellant believes that a reply is warranted to address the arguments outlined within the State's brief, including, but not limited

to, the State's argument raised for the time on appeal that this Court's decisions in *Peraza* and *Salinas* creates a presumption of unconstitutionality.

6. Appellant's request is not made for purpose of delay but for a through and proper presentation of his arguments.
7. Appellant's reply brief is being filed concurrently with this motion.

WHEREFORE, counsel for Appellant prays that he be granted leave to file a reply brief to the State's responsive brief regarding the Appellant's petition for discretionary review. Appellant also prays for such other relief that this Court may deem appropriate.

Respectfully submitted,

Alexander Bunin
Chief Public Defender
Harris County Texas

/s/ Nicholas Mensch
Nicholas Mensch
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Attorney for Appellant
Ruben Lee Allen

CERTIFICATE OF SERVICE

I certify that a copy of Appellant's Motion for Leave was served on Clinton Morgan of the Harris County District Attorney's Office and Stacey Soule of the Office of State Prosecuting Attorney on March 13, 2019 to the email addresses on file with the Texas e-filing system.

/s/ Nicholas Mensch
Nicholas Mensch